

Application S/N 10/741,653  
Amendment Dated: January 31, 2006  
Response to Office Action dated: September 26, 2005

CE12083JME

### **REMARKS/ARGUMENTS**

Claims 1-28 remain pending in the application, as claim 29 has been canceled without prejudice. In the Office Action, claims 1-3, 6-13 and 19-28 were rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Application Publication No. 2004/0203501 to Johnson, et al (Johnson) in view of U.S. Patent Application Publication No. 2005/0014537 to Gammon, et al. (Gammon). In addition, claims 14-18 and 29 were rejected under 35 U.S.C. 103(a) as being unpatentable over Gammon in view of U.S. Patent Application Publication No. 2004/0203484 to Charlier, et al. (Charlier). Finally, claims 4 and 5 were objected to as being dependent upon a rejected base claim.

A brief summary of the Johnson, Gammon and Charlier references may be helpful here. Johnson describes a mobile telephone that includes an elongated housing, which includes a carabiner latch pivotally attached at a battery door compartment at the rear side of the housing (see paragraph 0041). Moreover, the latch is adapted to be stored within a door open recess for receiving the latch for storage purposes (see paragraph 0043). The latch can be swung outwardly away from the housing to a variety of use positions (see paragraph 0043). The latch also has a hook portion that enables a user to attach the telephone to a suitable apparatus (see FIG. 14). Johnson never mentions anything about porting audio in the telephone.

Gammon discloses a mobile terminal that includes a housing, an electronic circuit and a speaker assembly positioned in the housing (see Abstract). The speaker assembly includes a first speaker positioned adjacent a first side of the electronic circuit and a second speaker positioned adjacent the first speaker on the first side of the electronic circuit (see Abstract). A grommet, which is positioned in the housing, is

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configured to receive the first speaker and the second speaker, which are also positioned in the grommet (see Abstract).

Charlier describes a communication device with an extending hinged flip apparatus, which includes three interconnected movable housings: (1) a base housing that includes a user interface and most of the electronics of the device; (2) a flip housing that is coupled by a hinge assembly to the base housing; and (3) an extendable housing that is configured to slideably engage the base housing (see Abstract). A latch mechanism mechanically couples the flip housing to the extendable housing in a latched position (see Abstract). When the latch mechanism is released, the flip housing rotates out, and the extendable housing extends to effectively double the length of the device (see Abstract). Similar to Johnson, Charlier is not at all concerned with porting audio through an audio channel.

Independent claim 1 recites a receiving element contained within the housing in which the receiving element includes a recess for engaging the latch element and at least one audio port for providing an audio channel for the electronic device. Applicant respectfully disagrees with the Examiner's obviousness rejection. To find obviousness, there must be some suggestion or motivation, either in the prior art references themselves or in the knowledge generally available to one of skill in the art, to modify the prior art reference or to combine prior art reference teachings. Also, there must be a reasonable expectation of success (see MPEP 706.02(j)).

Here, Johnson is simply not at all concerned with the porting of audio in the handset. As noted above, Johnson never mentions anything about this subject. Johnson is directed to providing a latch that can permit a handset to be attached to a

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loop, strap or ring in an inverted manner. There is simply no reason to desire to have a speaker and/or an audio channel positioned in the latch of Johnson. If such a configuration were attempted, the device to which the latch would be attached would interfere with the proper passage of the audio signals emanating from the audio channel. For example, a purse strap would clearly block the flow of audio from an audio port if one were built into the latch of Johnson. In addition, this flaw in the combination of the Johnson and Gammon references does not lead to a reasonable expectation of success.

Independent claim 14 has been amended to clarify that the removable housing portion includes a recess, that the audio port is part of the recess and that the audio port is part of the audio channel. Support for the amendment can be found in FIGs. 2-4. No new matter has been added in view of this amendment. In contrast to the amended feature, neither Gammon nor Charlier discloses a recess having an audio port in which the audio port is part of an audio channel. Further, Applicant respectfully submits that there is no suggestion or motivation to modify the Gammon reference with the latching mechanism of Charlier, as Gammon is not a flip phone, nor does it describe the selective release or disengagement of any portion of its housing.

Independent claim 19 has been amended in a fashion similar to claim 14. Specifically, claim 19 has been amended to clarify that a latch element is coupled to a recess of a housing in which the recess includes at least one audio port and that the audio ports are part of the audio channel. Support for the amendment can be found in FIGs. 2-4. No new matter has been added in view of this amendment. Neither Gammon nor Johnson shows the steps of coupling a latch element to such a recess or

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creating an audio channel that has such audio ports. Additionally, there is no suggestion or motivation to combine the audio channels of Gammon with the recess of Johnson in view of the comments above with respect to claim 1.

In view of the above, Applicant submits that independent claims 1, 14 and 19 are patentable over the prior art. Applicant also believes that those claims that depend from these independent claims are patentable, both based on their dependencies on the independent claims and their patentability on their own. Reconsideration and withdrawal of the rejection of the claims is respectfully requested. Passing of this case is now believed to be in order, and a Notice of Allowance is earnestly solicited.

No amendment made was related to the statutory requirements of patentability unless expressly stated herein. No amendment made was for the purpose of narrowing the scope of any claim, unless Applicant has argued herein that such amendment was made to distinguish over a particular reference or combination of references.

In the event that the Examiner deems the present application non-allowable, it is requested that the Examiner telephone the Applicant's attorney or agent at the number indicated below so that the prosecution of the present case may be advanced by the clarification of any continuing rejection.

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The Commissioner is hereby authorized to charge any necessary fee, or credit any overpayment, to Motorola, Inc. Deposit Account No. 50-2117.

Respectfully submitted,

SEND CORRESPONDENCE TO:

Motorola, Inc.  
Law Department – MD 1610  
8000 W. Sunrise Blvd.  
Plantation, FL 33322

Customer Number: 24273

By: 

Larry G. Brown  
Attorney of Record  
Reg. No.: 45,834

Telephone: (954) 723-4295  
Fax No.: (954) 723-3871